

HEARINGS, MEETINGS, LICENSES

12-22-14



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Town of Middleborough

CONSERVATION COMMISSION

20 CENTRE STREET
MIDDLEBOROUGH, MASSACHUSETTS 02346

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MEMORANDUM

TO: Board of Selectmen
Robert Nunes, Town Manager
Christopher Peck, DPW Director
Planning Department
Robert Whalen, Building Commissioner

FROM: Patricia J. Cassady, Conservation Agent 

DATE: November 26, 2014

RE: Stormwater Management under MS4 & NPDES under the Environmental Protection Agency

I am writing this memorandum on behalf of the Conservation Commission due to the recent issue with the construction at the old St. Luke's Hospital site off Oak & Centre Streets. The issue was the improper installation or lack of erosion controls at the site to prevent siltation from entering the stormwater system in the town's drainage system. Although this site is outside of the Commissions' jurisdiction, the Conservation Commission believes that all the stormwater in the downtown area eventually ends up in the Nemasket River. The Environmental Protection Agency (EPA) notes that sediment runoff is the most common pollutant of rivers, streams, reservoirs and lakes. As such, the appropriate erosion controls should be employed at every commercial construction site. These include the following:

- Stabilized Construction Entrance;
- Site perimeter erosion control;
- Temporary slope stabilized control methods; and
- Internal controls (e.g. shallow basin) for stormwater runoff to prevent uncontrolled runoff from leaving the site during large storms.

These preventative siltation controls are part of standard engineering practice. An EPA National Pollution Discharge Elimination System (NPDES) general permit is required for project sites that disturb one (1) acre or more. The Owner and Contractor become responsible for maintenance and up-keep of the erosion control measures on the site for the duration of the project.

The Conservation Commission is also concerned that there is no oversight from other Town Boards once a project leaves the permitting stage. If the Conservation Commission does not have jurisdiction then there does not appear to be any check on the Contractor to install any erosion control measures and observe that they are functional. It is also unclear whether any peer review of permitted projects confirms that appropriate erosion control measures are indicated on the plan. The Approving Authority (Planning Board or Zoning Board) has the obligation to make sure that construction projects follow the Approved Plans by either the Zoning Enforcement Officer or a third party agent to the Board that is paid by the Applicant to perform these checks using their respective 53G account.

The Conservation Commission notes that the Draft EPA Municipal Separate Storm Sewer System (MS4) Phase II is a general permit that requires Cities and Towns to control pollution (e.g. sediment) from entering local water bodies and streams through their drainage systems. The MS4 is a long term permit that phases in requirements over a twenty year period.

The Commission, in cooperation with other Town Boards and the Department of Public Works (DPW), feels it is imperative that Middleboro begin to understand ways to meet the requirements of the Phase II MS4 permit. The Commission recommends that utilizing the method for project oversight outlined above is a beginning. These are methods employed by other Towns within the Commonwealth, including Bridgewater, Raynham, Plymouth, and Easton among other surrounding towns.

If the Town of Middleboro continues to allow sites to operate without appropriate erosion control measure that are not in compliance with MS4 and National Pollution Discharge Elimination System (NPDES) requirements, then the town and owners/operators of the subject properties could be fined by the EPA.

The Commission is willing to be a part of this process since it ultimately protects the resources that are under their jurisdiction. The Commission hopes that all the departments that are required to be involved can meet in the near future to come up with common guidelines and procedures that protect our shared natural resources.

Thank you

pjc